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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEB 16 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

IN THE MATTER OF:

MM DOCKET NO. 93-299

CAVAN COMMUNICATIONS CORPORATION

Presque Isle, Maine

DATE OF CONFERENCE: January 27, 1994

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FREE STATE REPORTING, INC.

Court Reporting Depositions

D.C. Area (301) 261-1902

Balt. & Annap. (410) 974-0947

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In the Matter of:)

CAVAN COMMUNICATIONS CORPORATION)

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Presque Isle, Maine)

The above-entitled matter came on for prehearing conference pursuant to notice before Judge Edward Luton, Administrative Law Judge, at 2000 L Street, N.W., Washington, D.C., in Courtroom No. 4, on Thursday, January 27, 1994 at 9:00 a.m.

APPEARANCES:

On behalf of Cavan Communications Corporation:

MARGARET L. MILLER, Esquire
Dow, Lohnes and Albertson
1255 Twenty-Third Street, N.W.
Washington, D.C. 20037

On behalf of the Mass Media Bureau:

GARY P. SCHONMAN, Esquire
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Suite 7212
Washington, D.C. 20554

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Conference Began: 9:00 a.m.	Conference Ended: 9:05 a.m.

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P R O C E E D I N G S

JUDGE LUTON: May I have the appearances, please, starting at my left?

MS. MILLER: Margaret L. Miller of Dow, Lohnes and Albertson entering an appearance for Cavan Communications Corporation.

MR. SCHONMAN: Good morning, Your Honor. Gary P. Schonman on behalf of the Chief, Mass Media Bureau.

JUDGE LUTON: All right. Thank you. I have before me a Motion for Certification of Application for Review to the Commission. I'm going to deny that simply for the reasons -- well, for one of the reasons stated by the Bureau. The Bureau pointed out two reasons in its opposition why the motion ought to be either dismissed or denied, one because it was late. How about the other, because the requirement that a controlling question of law be involved. It was not shown to be the case. I don't think certification will be proper. That's why I'm not going to certify, instead I'm going to deny that motion. The hearing in this case is presently scheduled for March the 15th. I'd like to stay with that date.

MS. MILLER: Your Honor, at this time, we would like to request a stay of the hearing. The situation is that the AM station is presently engaged in good faith efforts to put the station back on the air and we do believe that we will be able to put the station back on the air before the 15th of

1 March.

2 MR. SCHONMAN: Your Honor, I'd like to address that,
3 if I may.

4 JUDGE LUTON: All right. You may.

5 MR. SCHONMAN: The Bureau would oppose any request
6 for stay of the proceeding. Given the nature of this
7 proceeding, that is a revocation proceeding, we believe that
8 enough time has gone by for the licensee to make all
9 reasonable attempts to get the station back on the air. If
10 the actions that Ms. Miller has described bears some fruit and
11 the station is returned to the air before the commencement of
12 the hearing, presumably the licensee will file a motion for
13 summary decision on the first issue and we can take that up at
14 that time.

15 But we do think that dates should be set for
16 discovery and for commencement of the hearing so that this
17 case can proceed. If the station goes back on the air, all
18 well and good. If not, then we will have a hearing scheduled
19 and can move forward on the issues as designated.

20 JUDGE LUTON: All right. I will not set dates for
21 discovery, but I will let the hearing date stand as it
22 presently is and if indeed, as it's just been represented,
23 something should happen prior to March the 15th, I'm certain
24 the licensee will take some kind of steps to avoid the need
25 for going to hearing.

1 Perhaps a Motion for Summary Decision, as suggested
2 by Bureau counsel, would be the proper thing to do. But to
3 stay the hearing and the expectation that it won't be
4 necessary seems to me to be not the thing to do. I'm going to
5 decline to stay the proceeding. Instead I'm going to go ahead
6 and set some procedural dates as I had begun to do.

7 I'm going to leave the hearing scheduled for March
8 the 15th. I'm going to ask that witnesses be named a week
9 prior to that, by March the 8th and that exhibits in the case
10 be exchanged a week prior to that. That would be Tuesday,
11 March the 1st. So we've got March 1, exhibits, March 8,
12 witness notification, March 15, the hearing if indeed there's
13 going to be one. That's all that I proposed to do this
14 morning. Does either party have anything else?

15 MS. MILLER: I have one other comment and that is
16 that my client has represented to me, Your Honor, that if
17 they're not able to put this station back on the air within a
18 six-month period, that they would be willing to tender the
19 license to the Commission for cancellation.

20 JUDGE LUTON: That might be another one of those
21 happenings that obviates the need for a hearing. Well, we'll
22 just have to abide events, see how things develop. In the
23 meantime, I'm going to let the schedule that I've just stated
24 stand. Thank you very much. We'll be in recess.

25 MR. SCHONMAN: Thank you, Your Honor.

1 (Whereupon, at 9:05 a.m. on Thursday, January 27,
2 1994, the prehearing conference adjourned.)
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CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER

IN THE MATTER OF CAVAN COMMUNICATIONS CORPORATION

Name

MM DOCKET NO. 93-299

Docket No.

WASHINGTON, D.C.

Place

JANUARY 27, 1994

Date

We, the undersigned, do hereby certify that the foregoing pages, numbers 4 through 9, inclusive, are the true, accurate and complete transcript prepared from the reporting by MARYKAE FLEISHMAN in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the proceeding.

January 31, 1994
Date

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